

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FEDERAL TRADE COMMISSION and

THE PEOPLE OF THE STATE OF
NEW YORK, by LETITIA JAMES,
Attorney General of the State of
New York,

Plaintiffs,

v.

QUINCY BIOSCIENCE HOLDING
COMPANY, INC., a corporation;

QUINCY BIOSCIENCE, LLC, a
limited liability company;

PREVAGEN, INC., a corporation
d/b/a/ SUGAR RIVER
SUPPLEMENTS;

QUINCY BIOSCIENCE
MANUFACTURING, LLC, a
limited liability company; and

MARK UNDERWOOD, individually
and as an officer of QUINCY
BIOSCIENCE HOLDING
COMPANY, INC., QUINCY
BIOSCIENCE, LLC, and
PREVAGEN, INC.,

Defendants.

Case No. 1:17-cv-00124-LLS

**DECLARATION OF KATE
MATUSCHAK IN SUPPORT OF
PLAINTIFF PEOPLE OF THE
STATE OF NEW YORK'S
OPPOSITION TO DEFENDANT
MARK UNDERWOOD'S
MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Kate Matuschak, am an Assistant Attorney General in the New York State Office of the Attorney General. I submit this Declaration in support of the Opposition of Plaintiff People of the State of New York, by Letitia James, Attorney General for the State of New York to Defendant Mark Underwood's Motion for Partial Summary Judgment (filed Mar. 18, 2022) [Dkt. No. 210]. I have personal knowledge of the following information:

1. Attached hereto as Exhibit A is a true and correct copy of the 3/31/22 Order [Dkt. No. 29] in *FTC v. BINT Operations, LLC*, No. 4:21-cv-00518-KGB (E.D. Ark.).

2. Attached hereto as Exhibit B is a true and correct copy of Defendants Quincy Bioscience Holding Company, Inc., Quincy Bioscience, LLC, Prevagen, Inc., and Quincy Bioscience Manufacturing, LLC Objections and Responses to Plaintiffs' First Requests for Admission, dated September 30, 2020.

3. Attached hereto as Exhibit C is a true and correct copy of Defendants Quincy Bioscience Holding Company, Inc., Quincy Bioscience, LLC, Prevagen, Inc., Quincy Bioscience Manufacturing, LLC, and Mark Underwood's Second Supplemental Responses and Objections to Plaintiffs' Second Set of Interrogatories, dated October 23, 2020.

4. Attached hereto as Exhibit D is a true and correct copy of Defendant Quincy Bioscience Holding Co., Inc., Quincy Bioscience, LLC, Prevagen, Inc., and Quincy Bioscience Manufacturing, LLC's Fourth Supplemental Responses and Objections to Plaintiffs' First Set of Interrogatories, dated October 23, 2020.

5. Attached hereto as Exhibit E is a true and correct copy of excerpts from the transcript of the August 20, 2020 deposition of Mark Underwood in this matter.

6. Attached hereto as Exhibit F is a true and correct copy of excerpts from the transcript of the August 21, 2020 deposition of Mark Underwood in this matter.

7. Attached hereto as Exhibit G is a true and correct copy of excerpts from the transcript of the August 4, 2020 deposition of Todd Olson in this matter.

8. Attached hereto as Exhibit H is a true and correct copy of Exhibit A to Plaintiffs' Proposed Findings of Fact, which was served on Defendants on February 3, 2022.

9. Attached hereto as Exhibit I is a true and correct copy of Defendants' Responses and Proposed Counter-Findings to Plaintiffs' Proposed Findings of Fact, dated March 3, 2022.

10. Attached hereto as Exhibit J is a true and correct copy of Quincy's Answers to FTC's Civil Investigative Demand Interrogatories, dated September 15, 2015.

11. Attached hereto as Exhibit K is a true and correct copy of an organizational chart that was marked as Exhibit 1 in the August 2, 2020 deposition of Todd Olson in this matter.

12. Attached hereto as Exhibit L is a true and correct copy of a document produced by Plaintiff Federal Trade Commission, Bates-numbered FTC-0000136.0001 through FTC-0000136.0004.

13. Attached hereto as Exhibit M is a true and correct copy of a document produced by Plaintiff Federal Trade Commission, Bates-numbered FTC-0004073.

14. Attached hereto as Exhibit N is a true and correct copy of a document produced by Corporate Defendants in this matter, Bates-numbered QUI-FTCNY-00114971 through QUI-FTCNY-00114972.

15. Attached hereto as Exhibit O is a true and correct copy of a document titled "Financial Statement of Corporate Defendant" with the date September 19, 2016.

16. Attached hereto as Exhibit P is a true and correct copy of excerpts from the transcript of the August 6, 2020 deposition of Kenneth Lerner in this matter.

17. On May 5, 2022, I observed Prevagen for sale on a pharmacy shelf in New York, New York.

I declare under penalty of perjury that the foregoing is true and correct.

Date: May 6, 2022

By: /s/ Kate Matuschak
Kate Matuschak

CERTIFICATE OF SERVICE

I certify that on this 6th day of May 2022, I served via ECF the foregoing Declaration of Kate Matuschak in Support of Plaintiff People of the State of New York's Opposition to Defendant Mark Underwood's Motion for Partial Summary Judgment to the attorneys of record on the Service List below.

/s/ Kate Matuschak
Kate Matuschak

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